

REMARKS

Reconsideration of this application in light of the present amendment and response is respectfully requested.

Claims 1-8 have been rejected.

Claims 9 and 10 were previously canceled.

Claims 1, 5 and 6 have been amended.

Claims 1-8 are pending in this application.

35 U.S.C. §101

Claims 1-8 have been rejected under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention. This rejection is respectfully traversed.

Claim 1 has been amended to incorporate portions of claim 6 so as to fall into a statutory category of invention, by being tied to a particular apparatus, by including the elements of minimizing an average ratio between a mobile station Eb/No achieved and an Eb/No target in the operation of the communication network, further support for which can be found on page 21 lines 19-22.

For the foregoing reasons, applicants respectfully request that the above rejection be withdrawn.

35 U.S.C. §112, 2nd paragraph

Claim 5 has been amended to remove the indefinite term.

Accordingly, applicants respectfully request the Examiner to withdraw the above rejection.

35 U.S.C. §103(a)

Claims 1-8 have been rejected under 35 U.S.C. §103(a) as being unpatentable over admitted prior art in view of “Pareto-based cost simulated annealing for multiobjective optimization” to Nam et al. (hereinafter “Nam”) and in further view to “Multiobjective Evolutionary Algorithms: A Comparative Case Study and the Strength Pareto Approach” Zitzler.

Independent claim 1 has been amended to better specify that a multiple objective simulated annealing (MOSA) process is applied to minimizing an average ratio between an achieved Eb/No and target Eb/No for a mobile station. Applicant respectfully submits that none of the cited art recites an average or target Eb/No element, and therefore none of the cited art

could have further envisioned applying a (MOSA) process to minimizing an average ratio between an achieved Eb/No and target Eb/No for a mobile station .

Accordingly, applicant respectfully that amended claim 1 is patentable and non-obvious over the cited art, and should be allowed.

Moreover, claims 2-8 are dependent on amended claim 1, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons.

Applicant respectfully requests that this rejection be withdrawn.

The other references of record have been reviewed and applicant's invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

Respectfully submitted,
Smith et al.

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